

United States Senate

WASHINGTON, DC 20510

May 28, 2020

The Honorable Steven Mnuchin
Secretary
US Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Mnuchin:

The President has threatened to direct the administration to withhold federal funds from states that undertake efforts to facilitate absentee and other vote-by-mail systems. In two tweets, he threatened to “hold up” federal funds from Nevada and Michigan over their voting systems (which he mischaracterized).¹

This is outrageous. Federal funds come from taxpayers and are appropriated by the people’s representatives in Congress; they do not belong to Donald Trump. He has no more authority to withhold funds from states in order to force them to modify voting practices that he fears would increase turnout than he does to withhold funds from foreign countries in order to force them to fabricate dirt about his political opponents.

The action the President has threatened to take also is illegal. The President cannot decline to spend money that Congress has appropriated, unless he submits a rescission under the Impoundment Control Act (ICA), which is subject to Congressional review. Instead, the President, in furtherance of his duty to faithfully execute the law, is required to provide the funds in accordance with the relevant statute. As the Government Accountability Office stated in its January 2020 decision finding that the Office of Budget and Management violated the ICA when it withheld funds for security assistance to Ukraine, “[f]aithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law.”² In this case, the President appears to be referring to funds that have been provided for relief to State, Tribal, and local governments under Title V of the CARES Act. Title V provides that funds are to be allocated to States according to a formula based on population, so long as the recipient provides assurance that the funds will be used for the expenditures incurred due to the coronavirus pandemic and were not accounted for in the previous budget, and the

¹ In one tweet, President Trump wrote, “Michigan sends absentee ballot applications to 7.7 million people ahead of Primaries and the General Election. This was done illegally and without authorization by a rogue Secretary of State. I will ask to hold up funding to Michigan if they want to go down this Voter Fraud path!” In another, he wrote, “State of Nevada ‘thinks’ that they can send out illegal vote by mail ballots, creating a great Voter Fraud scenario for the State and the U.S. They can’t! If they do, ‘I think’ I can hold up funds to the State. Sorry, but you must not cheat in elections.”

² <https://www.gao.gov/assets/710/703909.pdf>

costs are incurred by the end of 2020. Neither Title V nor any other law allows the Administration to impose additional conditions, such as complying with the President's wishes regarding state voting practices.


We request that you confirm that the Treasury Department will not withhold Title V funds or any other funds based on the President's opinion about a state's election practices, or for any other reason unrelated to the relevant statutory criteria.

Given the gravity of this matter, we ask that you respond promptly.

Sincerely,



RON WYDEN
United States Senator



PATRICK LEAHY
United States Senator



CHARLES E. SCHUMER
United States Senator



AMY KLOBUCHAR
United States Senator